

ESTTA Tracking number: **ESTTA675817**

Filing date: **06/03/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	W. L. Gore & Associates, Inc.
Granted to Date of previous extension	06/03/2015
Address	555 Paper Mill Road Newark, DE 19711 UNITED STATES

Attorney information	David J Johns W. L. Gore & Associates, Inc. 555 Paper Mill Road Newark, DE 19711 UNITED STATES djohns@wlgore.com Phone:3027384880
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Applicant Information

Application No	86385172	Publication date	02/03/2015
Opposition Filing Date	06/03/2015	Opposition Period Ends	06/03/2015
Applicant	LOCL Inc. PO Box 11837 Newport Beach, CA 92658 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0


Opposed goods and services in the class: Sportswear, namely, pants, outerwear, namely, jackets, rain wear, sweatshirts, sweaters, hooded sweatshirts, vests; footwear; accessories, namely, beanies, hats; wetsuits; wetsuit hoods; wetsuit booties; wetsuit gloves


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1907439	Application Date	06/01/1994
Registration Date	07/25/1995	Foreign Priority Date	NONE
Word Mark	NONE		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1989/03/10 First Use In Commerce: 1989/03/10 outerwear, namely caps, footwear, gloves, hats, jackets, mittens, overcoats, pants


U.S. Registration No.	2917186	Application Date	09/24/2002
Registration Date	01/11/2005	Foreign Priority Date	NONE
Word Mark	GUARANTEED TO KEEP YOU DRY GORE-TEX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/12/01 First Use In Commerce: 2000/12/01 OUTERWEAR, NAMELY CAPS, FOOTWEAR, GLOVES, HATS, JACKETS,		

	MITTENS, OVERCOATS, AND PANTS
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U.S. Registration No.	4444619	Application Date	04/27/2012
Registration Date	12/03/2013	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a three dimensional design depicting a diamond and a rectangle connected to the right side of the diamond.		
Goods/Services	Class 025. First use: First Use: 2013/09/01 First Use In Commerce: 2013/09/01 Footwear		

U.S. Registration No.	4518502	Application Date	07/27/2012
Registration Date	04/22/2014	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The mark consists of The mark consists of Black diamond with a straight line attached to the right side of the diamond.
Goods/Services	Class 025. First use: First Use: 2013/08/30 First Use In Commerce: 2013/08/13 Clothing, namely, headwear, footwear, coats, jackets, parkas, pants, gloves, mittens, jumpsuits, coveralls, rain suits

U.S. Registration No.	4538386	Application Date	04/27/2012
Registration Date	05/27/2014	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of Blank diamond witha straight line attached to the right side of the diamond.		
Goods/Services	Class 025. First use: First Use: 2013/08/30 First Use In Commerce: 2013/08/30		

	Clothing, namely, headwear, footwear, coats, jackets, parkas, pants, gloves, mittens, jumpsuits, coveralls, rain suits
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Attachments	74532167#TMSN.png(bytes) 78167357#TMSN.png(bytes) 85610152#TMSN.png(bytes) 85688779#TMSN.png(bytes) 85610146#TMSN.png(bytes) Opposition Statement.pdf(115688 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/allan m wheatcraft/
Name	Allan M Wheatcraft
Date	06/03/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK
TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No. 86385172

For a Figurative Mark Published in the Official Bulletin on February 3, 2015

W.L. Gore & Associates, Inc. (Opposer)

v.

LOCL INC. (Applicant)



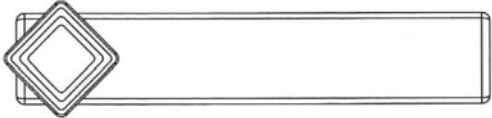

NOTICE OF OPPOSITION


This opposition is being brought by W.L. Gore & Associates, Inc., a Delaware corporation, with a principle address at 555 Paper Mill Road, Newark, DE 19711 ("Opposer").

The above-identified Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Since at least 1989 Opposer has used a figurative mark of a black diamond in conjunction with the promotion and sale of a variety of clothing, footwear, and accessory products, all in International Class 25. Opposer's use and promotion of its black diamond design has been extensive both in the United States and overseas and has achieved international fame.
2. Opposer is the owner of a number of U.S. Registrations in International Class 25 for marks that incorporate a black diamond design. These include the following registrations:

Mark	Registration No.	Date of Registration	Description of Goods
	1,907,439	July 25, 1995 Incontestable	Outerwear, namely caps, footwear, gloves, hats, jackets, mittens, overcoats, pants
	2,917,186	January 11, 2005 Incontestable	Outerwear, namely caps, footwear, gloves, hats, jackets, mittens, overcoats, pants
	4,444,619	December 3, 2013	Footwear
	4,518,502	April 22, 2014	Clothing, namely, headwear, footwear, coats, jackets, parkas, pants, gloves, mittens, jumpsuits, coveralls, rain suits

	4,538,386	May 27, 2014	Clothing, namely, headwear, footwear, coats, jackets, parkas, pants, gloves, mittens, jumpsuits, coveralls, rain suits
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3. In the present application applicant seeks registration of the figurative mark:



described as consisting of “a diamond design with two horizontal and two vertical lines extending across the diamond” in International Class 25 for the following goods:

“sportswear, namely, shirts, shorts, pants, rash guards, wetsuits; outerwear, namely, jackets, rain wear, sweatshirts, sweaters, hooded sweatshirts, vests; surf wear; footwear; accessories, namely, scarves, beanies, hats; wetsuits; wetsuit hoods; wetsuit booties; wetsuit gloves.”

4. Given the similarity of the marks, the description of goods, and the channels of trade for their respective products, there is a likelihood of confusion between Opposer’s registrations for its black diamond design as applied to its described goods and at least the following goods for which applicant seeks registration: sportswear, namely, pants; outerwear, namely, jackets, rain wear, sweatshirts, sweaters, hooded sweatshirts, vests; footwear; accessories, namely, beanies, hats; wetsuits, wetsuit hoods; wetsuit booties; wetsuit gloves.

5. As such, Applicant's mark so resembles a mark registered in the Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods or services of the defendant, to cause confusion, or to cause mistake, or to deceive in violation of Trademark Act § 2(d), 15 U.S.C. §1052(d).
6. Further, as is averred, Opposer's registered marks have achieved fame and as such Applicant's mark would dilute the distinctive quality of plaintiff's famous mark.
7. Opposer has standing to oppose the present application pursuant to 15 U.S.C. §1063 and 37 C.F.R. §2.101 as Opposer believes it would be damaged by the registration of the figurative mark of the present application.